

1 Tyson M. Takeuchi, SBN 177419
LAW OFFICE OF TYSON M. TAKEUCHI
2 1100 Wilshire Blvd., Suite 2606
Los Angeles, CA 90017
3 Tel 213.637.1566
Fax 888.977.6310
4 tyson@tysonfirm.com

5 || Attorney for Debtor

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
SAN FERNANDO VALLEY DIVISION

11	In re:	))Case No.: 1:14-bk-10267-VK
12	Beth Shwarz,))
13	Debtor.	))Chapter 7
14))
15		))DEBTOR'S REPLY TO BRIDGELOCK
16		))CAPITAL'S OBJECTION TO DEBTOR'S
17		))PROPOSED CHAPTER 13 PLAN;
18		))DECLARATION OF DEBTOR BETH SHWARZ
19))
		))Confirmation Hearing:
		))Date: April 8, 2014
		))Time: 9:30 a.m.
		))Ctrm: 301, Third Floor
		)) U.S. Bankruptcy Court
		)) 21041 Burbank Boulevard
		)) Woodland Hills, CA 91367
))

20 Debtor Beth Shwarz ("Debtor") hereby replies to the objection to
21 confirmation of plan ("Objection") filed by Bridgeloock Capital
22 ("Bridgeloock"). Bridgeloock is the holder of a note secured against the
23 Debtor's residence by a second deed of trust.

24 Debtor disputes Bridglock's statement that civil litigation
25 between the Debtor and Bridglock was settled and released. Debtor
26 also disputes the validity of the "Settlement and Mutual General
27 Release Agreement with Peak" attached as Exhibit 12 to the Objection.

1 Debtor further asserts that Bridgeloek's Objection fails to
2 disclose relevant facts concerning Bridgeloek's claim in the instant
3 case.

4 Bridgeloek's Omission of Relevant Facts

5 Debtor, with her husband Joseph Shwarz, entered into an agreement
6 with Bridgeloek, the terms of which are outlined in an Adjustable Rate
7 Note ("Note"). A copy of the Note is attached to the Objection as
8 Exhibit 1.

9 Per the terms of the Note, Bridgeloek was to loan the Debtor and
10 her husband \$338,000.00. The Debtor and her husband deny every
11 receiving \$338,000.00 from Bridgeloek.

12 Nevertheless, Bridgeloek leveled finance charges against the
13 Debtor and her husband that are appropriate for a \$338,000.00 loan.
14 Furthermore, the Debtors received monthly loan statements from
15 Bridgeloek reporting loan balances with interest accruing on a
16 principal balance of \$338,000.00. True, correct and complete copies of
17 an Itemization of Amount Financed, issued by Bridgeloek, and October
18 13, 2008 and February 12, 2009 mortgage statements, also issued by
19 Bridgeloek and sent to the Debtor, are attached hereto as Exhibit A.

20 Despite not having given the Debtor the agreed-upon loan amount
21 of \$338,000.00, Bridgeloek recorded a Notice of Default and Election
22 to Sell Under Deed of Trust ("Notice of Default") against the Debtor's
23 home on or about January 20, 2009. A true, correct and complete copy
24 of Notice of Default is attached hereto as Exhibit B.

25 Accompanying the Notice of Default is a Notice Required by the
26 Fair Debt Collection Practice Act, indicating the Debtor, as of
27 January 21, 2009, owed Bridgeloek \$362,548.64. Again, by this time the
28

1 Debtor had not yet received even the minimum agreed-upon loan sum of
2 \$338,000.00 from Bridgeloek. See *Exhibit B*.

3 Debtor contends that Bridgeloek's attempt to foreclose on her
4 home was based upon an invalid instrument, which she sought to remedy
5 by filing the first civil case against Bridgeloek in the Los Angeles
6 Superior Court.

7
8 Settlement and Release of the LASC Case Arose from Forged Papers

9 The Debtor and her husband, seeking to remedy the discrepancy
10 between what was promised to them by the Note and the amount
11 Bridgeloek actually lended to them, filed a civil case against
12 Bridgeloek in the Los Angeles Superior Court. This case was assigned
13 case number PC 049089.

14 Bridgeloek, in its Objection, attached as Exhibit 12, relies upon
15 a copy of the 'Settlement and Mutual General Release Agreement'
16 ("Release") allegedly entered into by the Debtor, her husband, and
17 Perak Financial Partners, Inc. as successor to Bridgeloek on May 23,
18 2011.

19 The Debtor denies ever seeing this document on or before May 23,
20 2011.

21 Debtor contends that the signatures that appear on the Release,
22 purported to belong to her and her husband, are forged. Attached
23 hereto as Exhibit C is a true, correct and complete copy of the
24 declaration of Victoria Petersen, an Expert Forensic Document
25 Examiner, and her handwriting analysis of the signatures in question.

26 Ms. Petersen's conclusion is that none of the signatures
27 appearing on the Release belong to the Debtor or her husband.
28

1 Therefore, the dismissal with prejudice of the Debtor's civil
2 proceeding against Bridgeloek is called into question.

3
4 The Debtor Did Not Sign the Modification of the Loan

5 Further complicating Bridgeloek's assertion of its claim in this
6 case is the loan modification agreement attached as Exhibit 4 to its
7 Objection. Said modification was signed by the Debtor's husband on May
8 21, 2011. The Debtor's signature does not appear on this document. Nor
9 was this document recorded against the Debtor's home.

10 Per the terms of this modification, the balance arising from the
11 Note was to be reduced to \$131,190.22 with monthly payments to be made
12 by the Debtor in the amount of \$1,000.00 commencing on June 1, 2011
13 and continuing until May 1, 2014.

14 However, just a year later, Bridgeloek sent to the Debtor a
15 collection letter concerning the allegedly modified loan, in which it
16 states the "total delinquency for the 11/01/11 to 03/01/12
17 installments is \$43,088.75." From this it may be concluded that
18 Bridgeloek was not interested in a good faith resolution of the
19 Debtor's dispute. A true, correct and complete copy of this
20 correspondence is attached hereto as Exhibit D.

21 Nevertheless, the Debtor's signature does not appear on the loan
22 modification. See Exhibit 4 attached to Bridgeloek's Objection. As
23 such, Bridgeloek's claim, at least as framed by the loan modification,
24 does not apply in the instant case.

Bridgelock's Failure to Perform According to the Note, Failure to
Resolve the Issues Surrounding the Note and Charging of Unreasonable
Fees have Forced the Debtor into a Corner

The Debtor has expended considerable time and money to resolve her dispute with Bridgelock in civil court and in the instant bankruptcy proceeding. Such an expenditure could have been avoided had Bridgelock made a timely and good faith effort to resolve the discrepancies between the loan promised to the Debtor and the monies actually furnished to the Debtor by Bridgelock.

Conclusion


In light of the issues surrounding Bridgelock's claim, further examination of its interest in the Debtor's property and its claim in the instant case is required before the Court should grant its request to deny confirmation of the Debtor's plan.

DATED: April 4, 2014



TYSON M. TAKEUCHI
Attorney for Debtor

DATED: April 4, 2014



BETH SHWARZ
Debtor

DECLARATION OF BETH SHWARZ

I, Beth Shwarz, declare and state as follows:

1. I am the debtor in Chapter 13 case No. 2:13-bk-36918-BB, I have personal knowledge of the facts stated herein, and if called upon to testify, could and would testify competently thereto.

2. Attached as Exhibit A are true, correct and complete copies of the Itemization of Amount Financed, issued by Bridgeloack Capital ("Bridgeloack"), October 13, 2008 and February 12, 2009 mortgage statements.

3. Attached as Exhibit B is a true, correct and complete copy of the Notice of Default and Election to Sell recorded against my home by Bridgeloack on January 20, 2009.

4. Attached as Exhibit C is a true, correct and complete copy of the declaration of Victoria Petersen, an Expert Forensic Document Examiner, and her handwriting analysis of the signatures that appear in the "Settlement and Mutual General Release Agreement with Peak" attached as Exhibit 12 to Bridgeloack's Objection to Confirmation of my Chapter 13 plan.

5. Attached as Exhibit D is a true, correct and complete copy of the February 16, 2012 notice my husband and I received from Peak Loan Servicing agent concerning our loan with Bridgeloack.

6. All of the statements contained within the instant Reply to Bridgeloack's Objection to Confirmation of Plan are true and correct to the best of my knowledge and belief.

///

1 I declare under penalty of perjury under the laws of the State of
2 California and the United States of America that the forgoing is true
3 and correct to the best of my knowledge and belief.

4 Executed this 4th Day of April, 2014, at Los Angeles, California.

5
6 
7 Beth Shwarz, Debtor

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
1100 Wilshire Boulevard, Suite 2606, Los Angeles, California 90017

A true and correct copy of the foregoing document entitled (*specify*): Debtor's Reply to Bridgeloock Capital's Objection to Debtor's Proposed Chapter 13 Plan; Declaration of Debtor Beth Shwarz

will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) 04/07/2014, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Steven M Mayer smayer@mayerlawla.com
Elizabeth (SV) F Rojas (TR) cacb_ecf_sv@ch13wla.com
Tyson Takeuchi tyson@tysonfirm.com, tysoncourtnotices@gmail.com
United States Trustee (SV) ustpregion16.wh.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) 04/07/2014, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Objecting Party: Bridgeloock Capital, c/o Mayer Law Group, APC, 16133 Ventura Blvd, PH-A, Encino, CA 91436

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) 04/07/2014, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

JUDGE: US Bankruptcy Court, 21041 Burbank Boulevard, Suite 354, Woodland Hills, CA 91367

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

04/07/2014 Albert Pfaffman
Date Printed Name

Signature 